Date Posted: November 16, 2012

CITY OF EAST PROVIDENCE

RHODE ISLAND

DOCKET OF REGULAR COUNCIL MEETING

**November 20, 2012** 

Council Chambers, City Hall, 145 Taunton Avenue, East Providence, RI 02914

7:00 P.M. Executive Session, Room 101

7:30 P.M. Open Session

#### I. EXECUTIVE SESSION

The City Council of the City of East Providence will meet in Executive Session pursuant to RI General Laws § 42-46-5 (a) (2) and RI General Laws § 42-46-5(a)(1)

A. New Claims

Philip & Patricia Abbatomarco

Commerce Insurance Company (Insured: Paul & Katherine Mello)

Martina L. Duarte

**Leslie Hey** 

Esperanza Rocha

**Travelers Insurance Company (Insured: Fatima DaSilva)** 

RI General Laws § 42-46-5 (a) (2)

B. Annual City Manager Job Performance Review per Hiring Resolution

RI General Laws § 42-46-5(a)(1)

#### II. CALL TO ORDER

#### III. SALUTE TO THE FLAG

#### IV. TO APPROVE THE CONSENT CALENDAR

All items under "CONSENT CALENDAR" are considered to be of a routine and noncontroversial nature by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the "CONSENT CALENDAR" and will be considered in its normal sequence on the docket.

#### A. Letters

- 1. Public Notice of Long Range Transportation Plan Draft from the State Wide Planning Council, November 14, 9:00Am Department of Administration and November 15, 6:30PM Department of Administration.
- 2. Notice of Change of Property Number TLC Properties, Inc, 360 Warren Avenue (02914), Map 206, Block 24, Parcel 005.00, Zoning C3.
- 3. Coastal Resources Management Council October 2012 Calendar.
- 4. Rhode Island Ethics Commission Public Notice of Proposed Rule- Making Regulation 36-14-17009 out-of-state travel.
- 5. Town of Charlestown Resolution in support of Low and Moderate

Income Housing Act: Program Analysis.
6. Coastal Resources Management Council November 2012 Calendar.
7. Coastal Resources Management Council extension deadline for emergency permitting.
B. Alcoholic Beverage Class F-1
1. St. Francis Xavier Church, 81 N. Carpenter Street (02914), St
Francis Xavier Band Christmas Party, December 8, 2012.
C. Cancellations/Abatements
YEAR AMOUNT
2012 \$19,492.20
2011 \$155.45
2010 \$6.31
TOTAL \$19,653.96
D. Council Journals
1. Regular Meeting October 16, 2012
MotionBy2nd

# **V. PROCLAMATIONS AND PRESENTATIONS**

Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_

A. Beautification Committee Annual Awards - Joe Gibson, Chair
B. Pancreatic Cancer Proclamation (by Mayor Rogers)
C. Proclamations to Alba Curti, Director of Parks and Recreation and Deborah Rochford, Adult Services Coordinator (by Mayor Rogers)
VI. PUBLIC COMMENT
VII. APPOINTMENTS
A. Traffic Control (by Mayor Rogers)
Guy Penha, 86 Mountain Avenue (02914)
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
B. Traffic Control (by Mayor Rogers)
Jonathan Cabral, 55 Colwell Street (02914)
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
C. Traffic Control (by Mayor Rogers)
Melanie Izquierdo, 53 Cobb Street (02914)
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
D. Zoning Board of Review - Reappointment (by Councilman Conley)

Tony Cunha, 10 Don Avenue (02916)	
MotionBy2nd	
ConleyDiGioiaKleylaRoseRogers	
E. Carousel Park Commission - Reappointment (by Councilwo	man
Kleyla)	
Stephen Costa, 86 Woodward Avenue (02914)	
MotionBy2nd	
ConleyDiGioiaKleylaRoseRogers	
VIII. LICENSES NOT REQUIRING PUBLIC HEARING	
A. Laundry/Drycleaner	
SLS, LLC DBA The Clothes Pin, 64 Newport Avenue (02916)	
Christopher M. Saunders, 25 Sunset Avenue, West Warwick (028)	93)
MotionBy2nd	
ConleyDiGioiaKleylaRoseRogers	
IX. PUBLIC HEARING - SHOW CAUSE HEARING	
Council Sitting as Licensing Commissioners	
A. PWRPJ Inc. DBA Rockin'Times, Philip W. Rigi, 61 Whitford St	treet,
Warwick (02889)	
MotionBy2nd	
ConleyDiGioiaKleylaRoseRogers	
B. D L Enterprises, Inc. DBA East Bay Tavern, Denise Laidlaw	. 150
Bloodgood Street, Pawtucket (02861)	,
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Motion	_By	_2nd_			
Conley	_DiGio	ia	_Kleyla	_Rose	_Rogers

#### X. PUBLIC HEARING - ORDINANCES FINAL PASSAGE

A. An ordinance regarding a stop sign on Burnside Avenue at Harris Street.

AN ORDINANCE IN AMENDMENT OF CHAPTER 18 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "VEHICLES AND TRAFFIC"

SECTION I. Section 18-269 entitled "Stop and yield intersections designated; when stops required" of Article IX entitled "Stop Intersections" of Chapter 18 entitled "Vehicles and Traffic" is amended by adding thereto the following:

Burnside Avenue (westbound traffic) at Harris Street

SECTION II. This ordinance shall take effect upon second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested By:	Assistant	Mayor	Rose
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Motion_	By	2nd			
Conley_	DiGioia	aKleyla_	Rose_	Rogers_	

## XI. NEW BUSINESS

A.City Managers Report (by City Manager Peter Graczykowski)

- 1. Departmental Activity Update
- 2. Hurricane Sandy Response Report
- 3. RFP Award for Refuse and Recycling Collection

MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
4. Homestead Exemption Audit
5. City Phone System Upgrade
6. State Income Tax Refund Offset Program Update
7. Riverside Development Project Update
8. Public Safety Pension Funding Improvement Plan
B.Reports of Other City Officials
1. School Committee Update (by Council Liaison School Committee Member Chrissy Rossi)
C. Council Members
1. Bi-Weekly Update (by Mayor Rogers)
- Update on Bath Salts
- Vacant Buildings/Tax Rate
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
- Removal of no parking Bentley Street, Mauran to Juniper

MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
- Grosvenor, Grove and John Streets Traffic Report
- EMS Report
- Volunteer Staffing of City Hall Lobby
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
- Update on Projo Mandatory Thursday Delivery
- Update on Sponsorship of Traffic Islands
MotionBy2nd
ConleyDiGioiaKleylaRoseRogers
- Champlin Foundation Grant for Tranquility Place
- Enforcement Issues
- Point of Personal Privilege
- Other Issues
2. Update on the Labor Day Parade Committee Meeting (by
Assistant Mayor Rose)
3. Outside Vendors (by Assistant Mayor Rose)
4. Proper Tools for Employees (by Assistant Mayor Rose)
5. Acknowledgment and expression of gratitude (by Councilman
Conley)
D Resolutions

1. A RESOLUTION IN SUPPORT OF THE REQUEST OF THE CITY OF EAST PROVIDENCE TO PARTICIPATE IN THE \$115.5 MILLION SURPLUS THE STATE OF RHODE ISLAND PRESENTLY HAS.

WHEREAS, the State of Rhode Island was running a deficit for the year 2012; and

WHEREAS, state aide was cut dramatically from cities and towns resulting in several cities ending their fiscal years with deficits; and WHEREAS, the State of Rhode Island has ended fiscal year 2012 with a \$115.5 million surplus; and

WHEREAS, the City of East Providence requests that the State of Rhode Island give the City of East Providence a fixed share of those surplus funds to be used for deficit reduction.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of East Providence hereby requests that the City Clerk send a copy of this resolution to the Governor of the State of Rhode Island, the Lieutenant Governor of the State of Rhode Island, the President of the Rhode Island Senate, the Speaker of the Rhode Island House of Representative, and the Senators and Representatives of the City of East Providence.

This resolution shall take effect upon its passage.

Requested By: Mayor Rogers

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Motion_	By2nd	d			
Conley	DiGioia	Kleyla	Rose	Rogers	

2. RESOLUTION REQUESTING LEGISLATIVE RATIFICATION OF THE CHARTER OF THE CITY OF EAST PROVIDENCE AS AMENDED

WHEREAS, on November 6, 2012 the voters of the City of East Providence overwhelmingly approved an amendment to the Home Rule Charter of the City of East Providence which provided that:

Sec. 5-1. Fiscal year; "budget year" defined.

The fiscal year of the city government shall begin on the first day of November and shall end on the last day of October of each calendar year unless a uniform fiscal year for all cities and towns shall be established by state law. Such fiscal year may be changed by ordinance so long as any such change remains in compliance with state law. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. 5-15

- (a) No budget act shall cause the aggregate expenditures enacted in any given fiscal year to exceed ninety nine percent (99%) of the anticipated revenues for such fiscal year as defined in Article V. Sec. 5-5 of this Charter.
- (b) There is hereby established a budget reserve fund. Revenues in this budget reserve fund may be included in the budget, whenever:
- (1) the city forecasts or experiences a loss in total non-property tax revenues and the loss is certified by the director of finance;
- (2) The city experiences or anticipates an emergency situation, which shall be deemed to exist when the city experiences or anticipates

health insurance costs, retirement contributions or utility expenditures which exceed the prior fiscal year's health insurance costs, retirement contributions or utility expenditures by a percentage greater than ten and one-half percent (10.5%);

- (3) The city forecasts or experiences debt services expenditures net of any state aid reimbursement which exceed the prior year's debt service expenditures by an amount greater than three and one-half percent (3.5%) and which are the result of bonded debt issued in a manner consistent with general law or a special act.
- (4) The city experiences substantial growth in its tax base as the result of major new construction which necessitates either significant infrastructure or school housing expenditures by the city or a significant increase in the need for essential municipal services and such increase in expenditures or demand for services is certified by the director of finance.

Whenever funds are used, they must be replenished in equal parts over the three (3) succeeding fiscal years to the amount that would have been in the fund had the expenditures not been made from the fund.

(c) The amount between the applicable percentage in (a) and one hundred percent (100%) of the anticipated revenue for any fiscal year defined in Article V, Sec. 5-5 of this Charter shall be transferred in any

given fiscal year into the budget reserve fund; provided, however, that no such payment will be made which would increase the total of the budget reserve fund to more than ten percent (10%) of only the anticipated revenues as set by subsection (a) of this section.

- (d) In the event that the payment to be made into the budget reserve fund would increase the total of the budget reserve fund to more than ten percent (10%) of the anticipated revenues as defined in Article V, Sec. 5-5 of this Charter. In the event that the payment to be made into the budget reserve fund would increase the amount in said account to more than ten percent (10%) of estimated state general revenues that said amount shall be transferred to a capital fund to be used solely for funding capital projects.
- (e) Capital projects shall not include debt reduction, principal or interest payments on debt, or for any other type of financing arrangement, but shall only be used for payment of direct actual expenses incurred for capital projects.
- Section 4-1. Finance department created; head of department designated; organization.
- (1) There shall be a department of finance, the duties of which shall include the supervision and direction of all matters pertaining to financial operations, and the head of which shall be the director of finance, who shall be, or be appointed by, the City Manager. The

further organization of the department into divisions or offices shall be made by the council, on recommendation of the city manager.

(2) The department shall be organized into the following divisions or offices: Control and accounts; treasury, assessment; purchasing. The heads of these divisions shall be respectively designated controller, treasurer, assessor and purchasing agent. They shall be appointed by the director of the department, with the approval of the city manager; Those powers, duties and responsibilities of any division enumerated in this Article IV, shall be assigned to the director of finance to be delegated in accordance with Sec. 3-5 of this Charter; and

Sec. 13-18. Office to be vacant if officer ceases to be city resident. shall be removed from the charter.

Sec. 2-14. Probate court.

- (1) The powers and duties of a probate court for the city shall be exercised and performed by a judge of probate.
- (2) The judge of probate shall be an attorney-at-law in good standing who has been admitted to the practice of law in this state. He shall be a qualified elector of the city. A preference in hiring shall be given to those residents of the city who apply for this position.

- (3) The council by resolution shall appoint a judge of probate to serve for a term of office concurrent with that of the council and until his successor is appointed and qualified.
- (4) In the absence, disability or disqualification of the judge of probate so that he is unable to perform his duties, the city solicitor shall serve as acting judge of probate and when so serving shall have and exercise all the powers and duties of the judge of probate.

Sec. 2-16. City clerk.

- (1) The council shall elect an officer who shall be an elector of the city and shall have the title of city clerk, and who shall give notice of its meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for that purpose all ordinances and resolutions. A preference in hiring shall be given to those residents of the city who apply for this position.
- (2) He shall be responsible for the keeping and maintaining, for public inspection, all records of the city including, but not limited to:
- (A) All land evidence records of every kind whatsoever;
- (B) All records of personal property mortgages, attachments, assignments, lis pendens notices, conditional sales, and liens of every kind whatsoever that are now or shall hereafter be required or permitted to be recorded in a public place in charge of or under the control, custody, or supervision of any officer of the city;

- (C) All records of the probate court;
- (D) All records of licenses issued by the city or by any officer or employee thereof;
- (E) All records of births, marriages and deaths;
- (F) All records of removals;
- (G) All records of trade names;
- (H) Such other records as shall by ordinance or laws of the state be required to be kept by the city clerk.
- (3) He shall issue all marriage licenses, burial permits, and such other licenses or permits as by ordinance or laws of the state shall be required to be issued by the city clerk, and shall perform such other duties as may be required by ordinance or laws of the state.

# Sec. 2-17. City solicitor.

The council shall elect an officer of the city who shall have the title of city solicitor. The solicitor shall be an attorney-at-law in good standing who has been admitted to practice in the state. He shall be a qualified elector of the city. The city solicitor shall be attorney for the city and legal advisor of the council and of all officers, departments, and agencies and shall perform such other duties as may be prescribed by the council. A preference in hiring shall be given to those residents of the city who apply for this position.

# Sec. 3-1. Qualifications.

The city manager shall be chosen by the council solely on the basis of executive and administrative qualifications, with special reference to prior experience in, or knowledge of, accepted practice with respect to duties of the office as hereinafter set forth. In addition, the city manager shall be a graduate of an accredited four-year college or university, with a master's degree in public administration, business administration, or a related field. The city manager shall have at least three (3) years of actual experience in a management level position in either the public or private sector. Such experience must include positions with responsibility in any of the following areas: Finance, public works, public personnel, safety, development of their equivalent. At the time of appointment, the city manager need not be a resident of the city or state, but during the tenure of office, the city manager shall reside in the city within a fifteen (15) mile radius of the city.

# Sec. 2-1. Number, selection and term.

The council shall have five [5] members, one to be elected from any by the electors of each of the four [4] wards of the city, and one to be elected at large, for a term of two [2] four (4) years or until a majority of the newly elected council have qualified and have taken office.

Sec. 10-1. School committee.

- (1) There shall be a school committee consisting of five (5) members. One (1) member shall be elected from the city at large, and one (1) member shall be elected from each of the four (4) wards of the city at the regular city elections to serve for terms of two (2) four (4) years.
- (2) Any vacancy in the membership of the school committee shall be filled by the city council until the next regular city election.

WHEREAS, by that vote, said amendment to the Charter has been duly adopted pursuant to Article 13, Section 8 of the Rhode Island Constitution and is now valid and in effect as Article 10, Section 4 of the Home Rule Charter of the City of East Providence; and

WHEREAS, the Home Rule Charter for the City of East Providence was originally adopted by the Town of East Providence in September 1954; and

WHEREAS, since that date, there have been several amendments to the Home Rule Charter, changes in various state laws affecting municipalities, and an amendment to the Constitution for the State of Rhode Island; and

WHEREAS, the City Council for the City of East Providence at this time wishes to seek legislative ratification of the entire Home Rule Charter of the City of East Providence as amended to reaffirm the commitment of the City of East Providence to its Home Rule Charter in all respects;

NOW, THEREFORE, the City Council for the City of East

Providence requests that the Rhode Island General Assembly ratify the Home Rule Charter of the City of East Providence as amended and by said ratification give effect to, confirm, and validate the Home Rule Charter of the City of East Providence as amended in its entirety.

BE IT FURTHER RESOLVED, that the City Clerk send a copy of this Resolution to the Senators and Representatives of the City of East Providence legislative delegation, the House of Representatives, the Rhode Island Senate, the President of the Rhode Island Senate, the Speaker of the House of Representatives, and the Governor of the State of Rhode Island Adopted by the City Council

Request	ed by:	City	<b>Manager</b>	•	
Motion	_By	_2nc	<b>I</b>		
Conley	_DiGio	oia	_Kleyla_	Rose	_Rogers

## **E. Introduction of Ordinances**

1. An ordinance regarding tree root liabilities.

AN ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "UTILITIES."

SECTION I. The definition of building sewer lateral as contained in Section 17-76 entitled "Definitions" of Article III entitled "Sanitary Sewer System" of Chapter 17 entitled "Utilities" is amended to read as follows:

Building sewer lateral means a pipe laid incidental to the original

construction of a sewer from that sewer to some point at the side of the street, highway or similar location, and there capped, having been provided and intended for extension and for use at some time thereafter as a part of a building sewer. When a building sewer lateral has been connected with and extended for the purpose of installing a building sewer, the lateral shall become and thereafter be a part of such building sewer, to be maintained as provided for building sewer. Sewers constructed prior to 1951, where building sewer laterals were installed at the owners expense, shall continue to be installed at the expense of the owner. The city will assume responsibility for repair of a broken or cracked sewer lateral between the curb line and the sewer main or for any blockage caused by a city tree. This provision shall not prevent the city from holding any third parties liable for damages to a sewer lateral.

SECTION II. This ordinance shall take effect upon its second passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Requested By: City Solicitor

Motion\_\_\_By\_\_2nd\_\_\_

Conley DiGioia Kleyla Rose Rogers

2. An ordinance regarding a one way street westbound on Alice Street.

AN ORDINANCE IN AMENDMENT OF CHAPTER 18 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE

ISLAND, 1998, AS AMENDED, ENTITLED "VEHICLES AND TRAFFIC"

SECTION I. Section 18-247 entitled "Designation of one-way streets" of Article VIII entitled "One-Way Streets" of Chapter 18 entitled "Vehicles and Traffic" is amended by deleting therefrom the following:

Alice Street (westbound) from Taunton Avenue to James Street SECTION II. This ordinance shall take effect upon second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requeste	d By:	Direc	tor of Pu	blic Work	<b>(S</b>	
Motion	_By	_ <b>2</b> nd_				
Conley	_DiGio	ia	_Kleyla	_Rose	_Rogers	

# F. Communications

- 1. Tony Fereirra, 44 Brightridge Avenue (02914) requesting to address the Council regarding the re-pavement of Waterman Avenue and the status of the "birdhouses on the Broadway overpass.
- 2. Freddie Rybka, 9 Cozzens Avenue (02915) requesting to address the Council regarding Sutton Avenue and pot holes in the Riverside area.
- 3. Izilda Teves, 345 Sutton Avenue (02914) requesting to address the Council regarding Crossing Guards.

XII. ADJO	JUKNIMI	ENI			
Motion_	By	2nd			
Conley_	DiGio	iaKleyla_	Rose_	Rogers_	

\* Any items listed on the Council Docket may be subject to a vote.

\*If communications assistance is needed or any other accommodations to ensure equal participation please contact the City Clerk's Office at 435-7590.